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Miscellaneous No. 345, October Term 1947,

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Miscellaneous No. 1, October Term 1948.

In the Supreme Court of the United States

GRACE W. ADKINS AS ADMINISTRATRIX OF THE
ESTATE OF P. V. ADKINS, DECEASED,

Petitioner,

vs.

E. I. DU PONT DE NEMOURS & COMPANY, INC.,

Respondent;

THE UNITED STATES OF AMERICA, *Intervener.*

APPENDIX TO BRIEF OF RESPONDENT, E. I. DU PONT
DE NEMOUS & COMPANY, INC.

PETER B. COLLINS,
Wilmington, Delaware,

G. C. SPILLERS,
Tulsa, Oklahoma,

G. C. SPILLERS, JR.,
Tulsa, Oklahoma,

Counsel for Respondent.

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IN THE UNITED STATES DISTRICT COURT IN AND
FOR THE NORTHERN DISTRICT OF THE
STATE OF OKLAHOMA.

No. 1816 Civil.

P. V. Adkins as agent for J. R. Adcock, W. C. Brewster,
V. J. Blevins, T. F. Holmes, W. A. Heape, J. A.
Hodges, R. Kanard, R. E. Ladd, C. Rogers, Jr., W. M.
Renner, V. R. Willis, C. Snodgrass, Plaintiffs, vs. E. I.
du Pont de Nemours & Company, Inc., Defendant.

COMPLAINT.

Come now the plaintiffs as so designated in the caption thereof, and for cause of action against the defendant as so designated in the caption hereof; allege and state, that at all times herein mentioned:

1. This action is brought under and pursuant to the Fair Labor Standards Act of 1938 (Title 29 U. S. C. A., Secs. 201-219), and Executive Order No. 9240 as amended (Title 40 U. S. C. A., following Sec. 326) for all unpaid overtime compensation and damages and attorney's fees that may be due and unpaid to plaintiffs and each of them from defendant by reason of their respective employment by defendant in or around a plant and place of business operated by defendant and located near Pryor in Mayes County, Oklahoma, at all times since January 1, 1942.

2. This action is also brought under and pursuant to said Act and said Executive Order for such unpaid overtime compensation and damages and attorney's fees for and on behalf of all other such present or former employees who appoint and authorize said P. B. Adkins as agent to institute and prosecute such action in their behalf against de-

defendant or intervene as plaintiff in their behalf in this action with the permission of the court so to do.

3. Said P. V. Adkins has been appointed and authorized by each of the other parties named in the caption hereof as plaintiffs to institute and prosecute this action for and on their behalf.

4. Defendant is a foreign corporation authorized to do the business in Oklahoma hereinafter mentioned, and is engaged in the business of production and manufacture of gunpowder, T. N. T., and other explosives and related products in and around said plant and place of business for shipment in interstate commerce and for the United States Government in its prosecution of what is generally known as World War No. 2, and in the shipment of all such products to points and places outside the State of Oklahoma, and that all of said production and products or a major portion thereof were shipped in interstate commerce.

5. Defendant, in its operation of said business, employed plaintiffs in and plaintiffs devoted all of their working time to, except as hereinafter set out, the construction, operation, maintenances, inspection, protection, care, and repair of the tools, machinery, equipment, and building used in said production, also the handling, care, protection, and inspection of said products and the materials used therefor, and also the clerical work necessary to the conduct of said business.

6. Said plant and place of business is in constant operation day and night, most of plaintiffs being employed and working there alternately seven days at a time on each of the three work shifts there known as "swing shifts," and some of plaintiffs being so employed by defendant and working there on the work shift there known as the "regular day shift," and some of plaintiffs being so employed by defendant and working there on the work shifts there known as "patrol swing shifts" of which there were three.

7. Due to the hazardous nature of defendant's said business it required a wide dispersal of buildings and pro-

duction units and special clothing and washing facilities and special regulations and safety rules for said employees, and plaintiffs were required by defendant to and did check in and start their respective duties for defendant at said plant and place of business from 30 to 60 minutes each time before their respective shifts were schedules to commence operations on said production, and were so required to and did check back out and cease their respective production shift duties for defendant there from 10 to 40 minutes each time after their respective shift was scheduled to cease operations on said production. This time on duty before and after shifts, amounting to at least one hour per workday per employee, was spent by plaintiffs in reporting in and out by defendant's time clocks and time cards at defendant's entrances to said plant and place of business, being searched by defendant for the safety of all concerned and said plant and place of business, waiting on and using transportation furnished by defendant in transporting plaintiffs in going to and from the widely dispersed buildings and places of work operated by defendant in said plant and place of business, changing to and from special clothing required by defendant to be used and left at said plant and place of business each workday for reasons of safety, washing the chemicals and other dangerous matter from their bodies for reasons of safety, and in going to and from their assigned places of work and operation within the boundary of said plant and place of business, all of which are conditions of and a part of their respective employments with defendant and said time is therefore in fact time worked within the contemplation of the laws sued under. That said reasons of safety and others are based on regulations and safety rules of defendant enforced through disciplinary action by defendant on plaintiffs from the times plaintiffs so checked in on defendant's said premises until the times they so checked back out, not only for the safety and protection of all persons and property concerned but also for the more efficient operation of defendant's said business.

8. The operational schedule for the "swing shifts" is from 12 o'clock midnight to 8 o'clock a. m., from 8 o'clock a. m. to 4 o'clock p. m. and from 4 o'clock p. m. to 12 o'clock midnight, every day; and for the "regular day shift" it is from 8 o'clock a. m. to 4:30 o'clock p. m. each day with Sundays off; and for the "patrol swing shifts" it is from thirty minutes before each "swing shift" schedule until thirty minutes after each "swing shift" schedule.

9. The plaintiffs who worked either the "swing shifts" or the "patrol swing shifts" worked seven consecutive days on each such shift with no relief or time off for eating, and had a rest period before reporting back for duty on another such shift, but during each seven successive calendar weeks they never had more than three days of rest, and said shifts were scheduled and posted by defendant on bulletin boards within said plant for as much as a year in advance. After working the 4 o'clock p. m. to 12 o'clock "midnight swing shift" or the corresponding "patrol swing shift" for seven consecutive days and after a rest period, these plaintiffs would then work the 8 o'clock a. m. to 4 o'clock p. m. "swing shift" or corresponding "patrol swing shift" for seven consecutive days, and after another rest period would then work the 12 o'clock midnight to 8 o'clock a. m. "swing shift" or corresponding "patrol swing shift," and such rotation of work on such shifts thus continued and these plaintiffs worked such alternate "swing shifts" or "patrol swing shifts" for the duration of their respective employment or until transferred to another schedule by defendant. These plaintiffs state that these "swing shifts" and "patrol swing shifts" constituted their respective regular scheduled workweeks within the contemplation of the laws sued under, and that they should have been paid for time worked on the seventh consecutive workday in each such workweek at a rate of double their respective regular hourly rates of pay. These plaintiffs were not paid for any of the work time set out in paragraph 7 above and they were paid only their respective regular hourly rates of pay for the production shift time hours worked on

the seventh such consecutive day, leaving wholly unpaid and due 6 overtime hours per workweek worked at one and one-half times their respective regular hourly rates of pay and one over-time hour each such seventh consecutive workday worked at double their respective regular hourly rates of pay and 8 overtime hours on each such seventh consecutive workday worked at their respective regular hourly rates of pay for each such hour, for each such plaintiff.

10. The plaintiffs who worked the "regular day shift" worked six days each week with thirty minutes each day off for lunch with each Sunday as their day of rest, all of which constituted their respective regularly scheduled workweeks within the contemplation of the laws sued under. These plaintiffs were not paid for any of the work time set out in paragraph 7 above, leaving wholly unpaid and due 6 overtime hours per week so worked at one and one-half times their respective regular hourly rates of pay for each such week worked, for each such plaintiff.

11. Plaintiffs' respective names and Social Security Numbers, plant badge numbers required for identification and accounting in said business, dates their respective employments started as to their various respective rates of pay, number of their said workweeks involved as to "swing shifts" (ss) or "regular day shift" (ds) or "patrol swing shifts" (ps), their respective regular hourly rates of pay, and the respective amounts of compensation and damages claimed, regarding their respective employments with defendant as herein alleged, are as follows:

<i>Names and Social Security Numbers.</i>	<i>Badge numbers.</i>	<i>Dates started.</i>	<i>Workweeks involved.</i>	<i>Hourly pay rates.</i>	<i>Amounts claimed.</i>
J. R. Adcock 445-05-3246	C-375	7-17-42	138 (ss)	91c	\$3516.24
W. C. Brewster 443-07-9816	C-492	7-17-42	22 (ss)	75c	462.
		1- 1-43	23 (ss)	83c	511.28
		7- 5-43	44 (ss)	91c	1121.12
		7-14-44	42 (ss)	99c	1164.24

Names and Social Security Numbers.	Badge numbers.	Dates started.	Workweeks involved.	Hourly pay rates.	Amounts claimed.
V. J. Blevins	M-3159	7-27-42	30 (ss)	72c	604.80
446-09-7210	M-1303	3-27-43	26 (ss)	96c	748.88
	M-6159	10-27-43	19 (ss)	1.16	617.12
		3-27-44	63 (ss)	1.36	2399.04
		8-14-45	15 (ss)	1.49½	627.90
T. F. Holmes	M-1385	5-20-42	11 (ss)	60c	124.80
448-09-9701	D-753	8- 6-42	23 (ss)	83c	534.52
	D-2309	2- 1-43	44 (ss)	91c	1121.12
	M-1364	2- 1-44	67 (ss)	99c	1857.24
OSR	11445	8-15-45	11 (ss)	1.05	323.40
W. A. Heape	M-6063	7- 7-42	19 (ds)	72c	383.04
442-03-9494	M-5089	12- 7-42	19 (ds)	96c	501.72
P-235	P-125	5-15-43	114 (ss)	1.16	3702.72
J. A. Hodges	M-5012	7- 8-42	134 (ss)	1.39	5215.
459-10-6174	M-1240				
	M-1284				
R. Kanard	M-3114	8- 6-42	30 (ds)	1.28	967.68
447-12-9116		3-18-43	47 (ds)	1.31	1723.96
		4-12-44	40 (ds)	1.41	1223.88
R. E. Ladd	D-1613	8-13-42	12 (ss)	75c	252.
446-09-7391	X-3111	11-15-42	12 (ss)	85c	285.60
	Z-95	2-20-43	12 (ss)	87c	292.32
		5-20-43	24 (ss)	95c	638.40
		11- 1-43	83 (ss)	83c	1928.94
C. Rogers, Jr.	A-11	6-24-42	142 (ss)	1.03	4095.28
443-07-8732	T-2007				
W. M. Renner	M-5007	7- 1-42	149 (ds)	1.36	5673.92
441-05-8453					
C. Snodgrass	S-4354	8-12-42	11 (ps)	75c	231.
443-07-5906	M-5100	11- 9-42	13 (ps)	88c	320.32
	M-1339	3- 1-43	22 (ps)	94c	301.20
		8-23-43	42 (ss)	96c	1128.96
		7- 3-44	44 (ss)	1.19	1466.08
		7-31-45	7 (ss)	1.39	272.44
		9- 3-45	10 (ps)	1.49½	224.25
V. R. Willis (Dorris)	D-9224	11- 9-42	88 (ss)	75c	1680.
448-12-1854	D-8132	8-14-44	24 (ss)	87c	584.60
	Z-8097				

12. Said P. V. Adkins is during the times mentioned an employee of the defendant in said plant and place of business, and has a claim against defendant similar to those herein set out, the establishment and collection for which is being prosecuted in case No. 1720-Civil now in litigation before this Court.

Wherefore, premises considered, plaintiffs pray judgment against the defendant for the respective amounts above claimed or for whatever amounts may be found due as to each claimant party plaintiff, and for a reasonable attorney's fee with respect to each successful claimant party plaintiff, and for the costs of this action and such other and further relief as to the court may seem just and proper.

P. V. Adkins,
P. V. Adkins as agent for the
within, and foregoing named
claimant parties plaintiff.

State of Oklahoma, County of Tulsa—ss:

P. V. Adkins, of lawful age being first duly sworn upon oath, states: I am the person named in the caption of the above and foregoing complaint as agent for the other named parties plaintiff herein, and I have read said complaint and know the contents thereof and the matters therein alleged are true.

P. V. Adkins.

Subscribed and sworn to before the undersigned this
May 17, 1946.

M. M. Ewing,
Deputy Clerk U. S. District Court
Northern District of Oklahoma.

(Seal)

Porter & Porter, Attys. for Plaintiffs,
By John W. Porter, Jr.,
630 Equity Building,
Muskogee, Oklahoma.

Filed: May 17, 1946, H. P. Warfield, Clerk U. S. District Court:

In the United States District Court in and for the Northern
District of the State of Oklahoma.

No. 1816-Civil.

P. V. Adkins, *et al.*, Plaintiffs, *vs.* E. I. du Pont de Nemours
& Co., Inc., Defendant.

AMENDMENT TO COMPLAINT.

Comes now P. V. Adkins for himself and as agent for
all the other claimant parties plaintiff herein, and for
amendment to and in addition to the complaint originally
filed herein, allege and state:

1. That before going through the clock gates of de-
fendant's plant and place of business near Pryor, Oklahoma,
before the work shifts, all claimants herein were, under
defendant's rules and regulations and supervision and as
a condition and part of their respective employments with
the defendant, required by defendant to travel over approxi-
mately three (3) miles of private roadway and either park
their cars in parking lots adjacent to and walk to the clock
gates or get out of buses or cars of others in which they
rode at places adjacent to and walk to the clock gates, all
of which took place on land under the control and super-
vision of defendant at all times involved in this action, all
of which acts were necessary to and a part of said employ-
ments and which consumed or required at least twenty (20)
minutes per claimant per workday worked at the plant in
addition to the time claimed in the complaint originally
filed herein.

2. That after going back out through the clock gates
after the work shifts, all claimants herein were, under the
defendant's rules and regulations and supervision and as
a condition and part of their respective employments with
the defendant, required by defendant to either walk back
to and wait at their parked cars or the parked cars of oth-
ers in the parking lots or wait on and board buses at places
adjacent to the clock gates, and thereafter travel back over
said roadway, all of which were necessary to and a part of

said employments and which consumed or required at least forty (40) minutes per claimant per workday worked at the place in addition to the time claimed in the complaint originally filed herein.

3. That these claimants were not paid for any of this time even though it is time worked as contemplated by the Act and Executive Order under which this action is brought, and was therefore compensatable at one and a half times their respective regular hourly rates of pay for the first six (6) workdays worked each workweek and at two times their respective regular hourly rates of pay for the seventh (7th) workday worked each workweek.

Wherefore, premises considered, in addition to the amounts previously prayed for, plaintiffs pray judgment against the defendant for this additional time of sixty (60) minutes per claimant per workday worked at three (3) times their respective regular hourly rates of pay for six (6) days per workweek, and at two (2) times their respective regular hourly rates of pay for the seventh (7th) consecutive workday worked each workweek, all for the duration of their respective employment with the defendant as set out in the complaint originally filed herein.

P. V. Adkins, as Agent,
Plaintiffs,
Porter and Porter,
Attys. for Plaintiffs,
By John W. Porter, Jr.,
630 Equity Building,
Muskogee, Okla.

State of Oklahoma, Muskogee County--ss:

P. V. Adkins, of lawful age being first duly sworn upon oath, states: I am the person named in the caption of the above and foregoing Amendment to Complaint as agent for all parties plaintiff therein, and I have read said instrument and know the contents thereof and the matters therein alleged are true.

P. V. Adkins.

Subscribed and sworn to before the undersigned this June 24, 1946. E. R. Bryant, Notary Public. (Seal) My commission expires 11-12-49.

I, John W. Porter, Jr., of Porter & Porter, Attorneys for plaintiffs herein, hereby certify that I mailed a true and correct copy of the above and foregoing instrument to the defendant's attorneys, Spillers & Spillers, 711 Ritz Building, Tulsa, Oklahoma, on June 24th, 1946.

John W. Porter, Jr.,

Filed Jun. 25, 1946. H. P. Warfield, Clerk U. S. District Court.

In the District Court of the United States for the Northern
District of Oklahoma.

No. 1816-Civil.

P. V. Adkins, *et al.*, Plaintiffs, vs. E. I. du Pont de Nemours
& Company, Inc., Defendant.

**ANSWER TO COMPLAINT AND AMENDMENT TO
COMPLAINT.**

Comes now the defendant and for its answer to the complaint, and amendment to complaint, filed herein, alleges and states:

First Defense.

The complaint and amendment to complaint herein fail to state claims against defendant upon which relief may be granted to the plaintiffs, or any of them.

Second Defense.

The defendant denies each and every material allegation in the complaint and amendment to complaint, filed herein, except such as are hereinafter specifically admitted.

Defendant admits that it is now and was at all times hereinafter mentioned a corporation, organized and existing under and by virtue of the laws of the State of Dela-

ware, with its principal place of business in the City of Wilmington, Delaware, and that it was at all times mentioned in the complaint and amendment to complaint duly authorized to transact business in the State of Oklahoma.

Defendant further admits that during the period from on or about July, 1942, up to and including V-J Day, on or about August 11, 1945, it operated for the United States Government what is commonly known as the Oklahoma Ordnance Works, located in Mayes County, Oklahoma.

Defendant further admits that it kept accurate records showing the time worked by each employee of the Oklahoma Ordnance Works and the amount of compensation paid to such employee.

It likewise admits that at the anti-sabotage barrier, constructed about the said plant in pursuance of the direction of the United States Government, it had clocks for keeping a record for clocking in and clocking-out time for persons employed in the said plant.

Third Defense.

Defendant for its third defense states that the statute of limitations on the claim of the plaintiffs, and each of them, is a three-year statute under the laws of the State of Oklahoma, and it pleads the same in bar of any claim of the plaintiffs, or any of them, which accrued prior to three years prior to the date of filing the complaint.

Fourth Defense.

Defendant for its further defense states that it made and entered into a certain written contract and agreement with the United States Government, under and by virtue of the terms of which it did undertake to and did operate what is commonly known as the Oklahoma Ordnance Works in Mayes County, Oklahoma, for the United States Government and for the purpose of manufacturing military explosives for the United States Government, to be used and which were used in the successful prosecution of what is commonly known as World War II.

Fifth Defense.

Defendant for its further defense specifically denies that the plaintiffs, or any of them, in connection with work about the Oklahoma Ordnance Works, as alleged in their complaint and amendment to complaint, were engaged in commerce or in the production of goods for commerce, or for inter-state commerce, as defined in the Fair Labor Standards Act, and none of the plaintiffs herein comes within the Fair Labor Standards Act.

Sixth Defense.

Defendant further states that the said plant was operated exclusively for war purposes. That all shipments made of military explosives manufactured in the said plant were made by the United States Government in cars furnished by it or caused to be furnished, directed to designations unknown to the defendant. Presumably, all of the said materials were shipped to points designated by the United States Government and used in and about winning what is commonly known as World War II.

Defendant further states that the Government of the United States in the shipment of materials to or causing the same to be shipped to what is commonly known as the Oklahoma Ordnance Works in Mayes County, Oklahoma, and the shipment of materials and products therefrom, was acting in its governmental capacity in the defense of its very existence as a nation, and not engaged in commerce or the production of goods for commerce within the meaning of the Fair Labor Standards Act of 1938 in any sense whatsoever.

Seventh Defense.

Defendant further states that the United States Government is now and was at all times mentioned in the complaint and amendment to complaint, filed herein, the owner of what is known as the Oklahoma Ordnance Works in Mayes County, Oklahoma, including all real estate, together with all improvements thereon and appurtenances there-

unto belonging, and all personal property, including all materials for the manufacture of military explosives at the time of acquisition of such materials and during all states of manufacture up to and including the finished product, and that the defendant operated the said plant where plaintiffs were employed, for and on behalf of the United States Government and under its immediate direction and control, pursuant to a cost-plus fixed fee contract with the United States Government, a copy of which is hereto attached, marked "Exhibit A" and made a part hereof.

Eighth Defense.

Defendant admits that it required all employees who worked at the Oklahoma Ordnance Works to clock in and clock out. That the clocking-in and clocking-out time and travel time to and from the anti-sabotage barrier, placed about said plant in pursuance of the direction of the United States Government, and the points of work, constituted no part of the time in which the plaintiffs were engaged in any productive work. Defendant specifically denies that it is indebted to the plaintiffs, or any of them, in any manner whatsoever for any work, labor and services, whether productive or non-productive, performed in connection with the operation of the Oklahoma Ordnance Works; but if it be held, contrary to the contention of defendant, and that it is indebted to any of the plaintiffs in this cause, the defendant insists that the plaintiffs, and each of them, be required to submit specific and definite proof of the actual necessary time consumed by each claimant in traveling from the said anti-sabotage barrier by the usual mode of travel to his or her particular point of productive work, and by the usual mode of travel returning to the said anti-sabotage barrier from the point of productive work of each claimant.

Ninth Defense.

Defendant for its further defense specifically denies that it is indebted to the plaintiffs, or any of them, in any sum whatsoever, and specifically denies the correctness of the claims sued on by the plaintiffs, and each and all of them.

Tenth Defense.

Defendant denies that plaintiffs have a right to prosecute this action on behalf of themselves and others similarly situated, but, on the contrary, alleges that each claimant's claim is in effect a separate and distinct lawsuit and demands strict proof of all essential elements to make out a case on behalf of any of the plaintiffs herein.

Eleventh Defense.

Defendant for further defense states that in connection with the allegations concerning change in wearing apparel in the plant, that some of the plaintiffs were required to make changes of wearing apparel after entering the anti-sabotage barrier into the Government military reservation on which the Oklahoma Ordnance Works was located, but that the time required to make changes of wearing apparel was insignificant, only requiring about two or three minutes, except in the case of those who were required to take a bath before leaving the plant and for all such employees, they were fully compensated for the time required to bathe and change their clothes.

Defendant further states that for all work, labor and services rendered by any of the plaintiffs herein, defendant paid for all such work out of funds furnished by the United States Government for such purposes.

Twelfth Defense.

Defendant for its further defense states that during the progress of the work at the Oklahoma Ordnance Works in Mayes County, Oklahoma, what is known as Executive Order No. 9240 was issued by Honorable FRANKLIN D. ROOSEVELT, President of the United States, on or about September 9, 1942. That the defendant herein complied with all the terms and conditions of the said Executive Order insofar as it pertained to the operation of the production of materials for war purposes at the Oklahoma Ordnance Works and paid to the plaintiffs any and all moneys which became due and payable under the terms of the said Execu-

tive Order No. 9240, out of funds furnished by the United States of America for such purposes.

Defendant demands the right to trial by jury of all issues of fact involved in this cause.

Wherefore, having answered the complaint and amendment to complaint fully, defendant prays that the complaint and amendment thereto of the plaintiffs be denied and dismissed, at the cost of the plaintiffs, and that it be allowed to go hence and recover its costs herein expended.

Peter B. Collins,
Wilmington, Delaware,
Spillers & Spillers,
By G. C. Spillers,
711 Ritz Building,
Tulsa, Oklahoma,
Attorneys for Defendant.

Proof of Service.

I, G. C. Spillers, hereby certify that I mailed a true and correct copy of the foregoing answer to Porter & Porter, 630 Equity Building, Muskogee, Oklahoma, attorneys for plaintiffs, on the 29th day of July, 1946.

G. C. Spillers,

(Exhibit A—Contract W-ORD-521 DA-W-ORD-8) at
tached to this pleading but omitted herefrom.)

Filed: July 29, 1946, H. P. Warfield, Clerk U. S. District Court.

In the United States District Court in and for the Northern
District of Oklahoma.

No. 1816-Civil.

P. V. Adkins, as Agent for J. R. Adcock, *et al.*, Plaintiffs
vs. E. I. du Pont de Nemours & Company, Inc., Defendant.

AMENDMENT TO ANSWER.

Comes now the defendant, and by leave of court first

had and obtained, files this its amendment to the answer herein and for its Twelfth Defense alleges and states:

Defendant for its further defense states that during the progress of the work of the Oklahoma Ordnance Works in Mayes County, Oklahoma, what is known as Executive Order No. 9240 was issued by Honorable FRANKLIN D. ROOSEVELT, President of the United States, on or about September 9, 1942. Defendant states that it complied with all the terms and conditions of the said Executive Order in so far as it pertained to the production of war materials at said Oklahoma Ordnance Works for the use of the United States Government in the promotion of World War II.

Defendant further alleges that the said Executive Order No. 9240 did not have the force and effect at law, nor did it confer upon the plaintiffs, or any of them, any right of action of whatsoever nature or kind, and plaintiffs herein cannot maintain any action or claim herein based upon said Executive Order No. 9240.

Wherefore, having answered the complaint and amendment thereto fully, defendant prays that the said complaint and amendment thereto be denied and dismissed at the cost of the plaintiffs, and that it be allowed to go hence and recover its costs herein expended.

Peter B. Collins,
Wilmington, Delaware,
Spillers & Spillers,
By G. C. Spillers,
711 Ritz Building,
Tulsa, Oklahoma.

I, G. C. Spillers, hereby certify that on the 2nd day of January, 1947, I mailed a true and correct copy of the above and foregoing amendment to answer to the attorneys of record for the plaintiffs in the above entitled cause, to-wit: Porter & Porter, Attorneys at Law, 630 Equity Building, Muskogee, Oklahoma.

G. C. Spillers.
G. C. Spillers.

Leave given to file this 2nd day of January, 1947.

Royce H. Savage, Judge.

Filed Jan. 2, 1947, Noble C. Hood, Clerk U. S. District Court.

In the United States District Court in and for the Northern District of the State of Oklahoma.

No. 1816-Civil.

Grace W. Adkins as Administratrix of the Estate of P. V. Adkins, Deceased, Plaintiff, vs. E. I. du Pont de Nemours & Company, Inc., Defendant.

MOTION.

Comes now the plaintiff and moves the Court to judicially find and determine herein that what is known as the "Portal-to-Portal Act of 1947," otherwise known as "An Act to relieve employers from certain liabilities and punishments under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, and the Bacon-Davis Act, and for other purposes" (Bill H. R. 2157) as passed by the Congress of the United States of America on May 1, 1947, and as signed by the President of the United States on May 14, 1947, does not apply to the case at bar, and that if the same does apply or tend to apply to the case at bar in any respect then said Act (1947) violates the Constitution of the United States of America, is unconstitutional, particularly as to its (Bill H. R. 2157) Section 1. (findings and policy), 2. (existing claims), 9. reliance on past administrative rulings, etc.), and 11. (liquidated damages), for the following reasons which would materially affect the substantial rights of plaintiff claimants:

1. Said Section 1 is too indefinite and vague to ascertain the intent and policy of Congress in said Act, and for all practical purposes is composed of groundless statements, and seeks to judicially determine the existence of

various liabilities which have not been judicially determined by the courts and which Congress has no such power. Congress has the legislative power to determine the probable existence and amounts of claims of a given class, but does not have power to judicially determine what portion or amount of such claims constitute liability.

2. Said Section 2 seeks to deprive plaintiff claimants of their liberties, freedoms, properties and vested rights, without due process of law and without any compensation, and, read in the light of the rest of said Act; seeks to judicially determine that traveling and various other activities necessarily required of employees in their employment whether supervised by the employer and/or on the employer's property do not constitute work. What is work, is a question for judicial determination to be made only by the courts. And work is property that cannot be taken without due process of law and without just compensation according to the Constitution.

3. Said Section 9 seeks to deprive plaintiff claimants of their liberties, freedoms, properties and vested rights, without due process of law and without any compensation, by seeking to divest the courts of their judicial powers and vest such powers in the administrative or executive branch of our Federal Government contrary to the Constitution.

4. Said Section 11 seeks to jeopardize said liberties, freedoms, properties and vested rights and constitutional rights of plaintiff claimants, by extracting the teeth and the most effective enforcement and remedial portions of the very law (Fair Labor Standards Act of 1938) that serves to protect and preserve said liberties, freedoms, properties and rights.

5. Article III of the Constitution provides:

“The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. . . .”

Congress has no judicial power, yet by and through the Act

complained of it seeks to convince the people that various and sundry and vaguely described yet catastrophic and awful conditions will come to pass *but* said act, all based on its purposed determination of the existence of various and sundry and vaguely described yet immense liabilities from someone to someone. The December 2, 1946, issue of Newsweek magazine carried a statement on page 77 thereof as follows:

"Walking Time. The United Mine Workers' District 50 has already won settlements of \$9,000,000, with many cases still pending. It has collected \$4,-656,000 from the Dow Chemical Co. in a voluntary settlement, and is suing du Pont for \$1,000,000. * * *"

We fail to find where any such industries are going broke or their stock is losing value because of such settlements or payments. The August 12, 1946, issue of Newsweek magazine carried a statement on pages 28 and 29 thereof as follows:

"Squandered Billions. * * * For three hours last week Washington's *earns* burned to a crisp. On the witness stand of the Senate War Investigating Committee was one of the Capitol's most outspoken men—Comptroller General Lindsay C. Warren, so-called 'watch-dog of the Treasury.' Angrily he barked out his charge; in five years the Federal Government—specifically the War Department—had thrown away 'untold billions' on war contracts. * * * Even with its hands tied by war-time procedures, Warren explained, the GAO (General Accounting Office) had recovered more than \$100,000,000 in 'illegal payments' during the past year. But as for \$65,000,000,000 worth of already settled war contracts, "the door is closed forever on any recovery of overpayments by the government'."

We have also noticed that the United States recently canceled the British War Debt to our Government totaling some \$34,000,000,000, and in addition loaned the British \$4,000,000,000, and further that our Government recently has or soon will loan or "give" billions of dollars more to

Greece, Turkey, France, China, and others to right communism abroad. Such facts and figures as these do not indicate that our Public Treasury or our industry employers are going broke as Congress would have us believe said Act. Said Act is in fact opposed to justice and is itself the total absence of justice, thus constituting the most ideal food and shelter for communism right here at home.

6. Amendment I of the Constitution provides:

“Congress shall make no law * * * abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble * * *.”

Plaintiff's Exhibits No. 21, No. 22, No. 23, and No. 24 (hand-books) introduced in evidence at the trial, contain such rules of the defendant as that numbered 17 on page 66 of said Exhibit No. 23, reading as follows:

“17. *Miscellaneous Rules.* No solicitations of any kind whatsoever will be allowed within the Works. No printed material of any kind may be posted on bulletin boards within the Works, except that pertaining to Federal, State, or Company matters.”

Such rules are not confined to paid time or to places within the anti-sabotage fence on the Works, but apply and extend to all times and places on said Works, including times and places outside said fence on “C Street” and the parking area and loading and unloading zones, etc., on said works, all within the jurisdiction of the defendant. Said Act in this instance tends to violate the Amendment by unjustly upholding the abridging of such freedoms of plaintiff claimants.

7. Amendment IV of the Constitution provides:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. * * *.”

Plaintiff's said exhibits above mentioned contain such rules of the defendant as that numbered 10 on page 65 of said Exhibit No. 23, reading as follows:

"10. *Search.* All employees may be searched when entering the Works and, from time to time, may be searched within or upon leaving the Works. These searches are conducted for the protection of the employees as well as for the protection of the Works."

Such rules are not confined to paid time or to places within the anti-sabotage fence on the Works, but apply and extend to all times and places on said Works, including times and places outside said fence on "C Street" and the parking areas and loading and unloading zones, etc., on said Works, all within the jurisdiction of the defendant. Said Act in this instance tends to violate the Amendment by unjustly upholding defendant's violation of such rights of plaintiff claimants.

8. Amendment V of the Constitution provides:

"No person shall be * * * deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Considering the facts in the case at bar that plaintiff claimants were by the defendant necessarily required to regularly and daily devote substantial portions of their time and effort on defendant's property for the benefit of defendant in traveling certain routes as prescribed by defendant in certain ways and manners as prescribed by defendant and in performing various other particular activities ordered and as prescribed by defendant, for which no compensation was paid; said Act in this instance tends to violate the Amendment by unjustly upholding defendant's acts or depriving plaintiff claimants of their liberty and property without any compensation and without due process of law.

9. Amendment IX of the Constitution provides:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."; and

Amendment X of the Constitution provides:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

In this instance said Act tends to deny or disparage the rights and powers retained and reserved by and to the plaintiff claimants, as defendant has denied and disparaged their rights and powers as proved in the trial of the case at bar.

10. Amendment XIII of the Constitution provides:

"Neither slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction * * *"

Considering the facts in the case at bar that plaintiff claimants were by the defendant necessarily required to regularly and daily devote substantial portions of their time and effort on defendant's property for the benefit of defendant in traveling certain routes as prescribed by defendant in certain ways and manners as prescribed by defendant and in performing various other particular activities ordered and as prescribed by defendant, for which no compensation was paid; said Act in this instance tends to violate the Amendment by unjustly upholding and sanctioning the involuntary servitude of plaintiff claimants for the sole benefit of defendant for practically all the time sued for.

11. Amendment XIV of the Constitution provides:

"* * * The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned * * *"

The Act complained of is based and purposed primarily on the questioning of the validity of the public debt of the United States, and since such basis is unconstitutional the Act in its entirety is unconstitutional as being arbitrary and void of just purpose.

12. Amendment XIV of the Constitution provides:

“ * * * No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. * * * ” and

Section 10 of Article I of the Constitution provides:

“ No state shall * * * pass any Bill of Attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility. * * * ”

This amendment and this section of this article are each premised on the fundamental facts that the people to have privileges, immunities, life, liberty, property, the rights to the equal protection of the laws, and obligations of contracts, all of which are reserved to the people and protected by the Constitution. In this instance said Act tends to deprive the liberty and property of plaintiff claimants and impair the defendant's obligation of contract to them, all without any compensation therefor and without due process of law as to all time necessarily spent on the Works of defendant by plaintiff claimants before and after their regular shift times. The Act tends to deprive the plaintiff claimants of their constitutional rights to the equal protection of the laws in that it seeks to unjustly penalize them and benefit the defendant in money, based on the fact that the three laws named in said Act were violated by the defendant and no adjudication or recovery has been had thereon at the date of said Act, while other and similar industries to the defendant paid their similarly situated employees for similar time and activities covering the same period of operations pursuant to said laws either voluntarily or pursuant to court action, concerning which said Act makes no pretense to declare an equalizing or reverse cause of action running against such paid employees in favor of their employers. In this respect said Act tends to sanction and protect only such employees who insisted on and collected by court action or otherwise during the recent war emergency

the pay for such time as is involved in the case at bar, while at the same time it tends to condemn and punish without just cause those employees who were not so paid and who did not bring court action therefor during the war emergency, many of which unpaid employees were for a year or more actually serving in the armed forces of our Government in that war and many of which will never return. Such unpaid employees, as soldiers fought and gave their blood to preserve and insure the rights and privileges and freedoms and obligations which said Act seeks now to destroy.

For reference and authority, see:

Lynch v. United States, 78 L. ed. 1434;

Alonzo Bailey v. State of Alabama, 55 L. ed. 191;

United States v. Petrillo, 68 F. Supp. 845;

Chastleton Corp. v. Sinclair, 68 L. ed. 841;

Reid v. Solar Corp., 69 F. Supp. 626.

Respectfully,

Porter & Porter,

Attys. for Plaintiff.

By John W. Porter, Jr.

I, John W. Porter, Jr., hereby certify that on this May 22, 1947, I personally delivered a true copy of the above and foregoing Motion to the defendant's counsel by delivery of such copy to Mr. G. C. Spillers of Spillers, Spillers & Voorhees, attorneys for the defendant, in open court.

John W. Porter, Jr.

Filed in open Court May 22, 1947, Noble C. Hood,
Clerk U. S. District Court.

In the United States District Court in and for the
Northern District of Oklahoma.

No. 1816-Civil.

Grace W. Adkins, as administratrix of the estate of P. V.
Adkins, deceased, as agent for J. R. Adcock, et al.,

Plaintiffs, vs. E. L. du Pont de Nemours & Company, Inc., Defendant.

AMENDMENT TO AMENDED ANSWER.

Comes now the defendant, and by leave of court first had and obtained, files this its amendment to its amended answer filed herein, and for further defense states:

That on the 14th day of May, 1947, what is known as the Portal-to-Portal Act of 1947 was signed by the President of the United States and became effective, and that under and by virtue of the said Act the plaintiffs herein cannot maintain this action. That none of the claims alleged and set forth in the complaint herein are compensable within the meaning and terms of the said Portal-to-Portal Act of 1947, and defendant herein pleads the said Act and all applicable terms thereof as a bar to any right of recovery on behalf of the plaintiffs, or any of them.

Wherefore, it prays that in addition to all of the defenses heretofore set up in its answer herein and amendment thereto be considered and that the claims of the plaintiffs, and each of them, be denied and dismissed at their cost.

Peter B. Collins,

Wilmington, Delaware,

Spillers, Spillers & Voorhees,

By G. C. Spillers,

711 Ritz Building,

Tulsa, Oklahoma,

Attorneys for Defendant.

Service of copy of the above Amendment to Amended Answer is hereby acknowledged this 22nd day of May, 1947.

Porter & Porter,

By John W. Porter, Jr.,

Attorneys for Plaintiffs.

Filed May 22, 1947. Noble C. Hood, Clerk U. S. District Court.

In the District Court of the United States for the
Northern District of Oklahoma.

No. 1816, Civil.

Grace W. Adkins, as Administratrix of the Estate of P. V.
Adkins, deceased, *et al.*, Plaintiffs, *vs.* E. I. du Pont
de Nemours & Company, Inc., Defendants; United
States of America, Intervenor.

PLEADING OF THE UNITED STATES IN
INTERVENTION.

The United States of America, intervenor herein, for
its pleading in intervention, says:

1. That intervenor is not required to answer the fac-
tual allegations of the parties to this action and, therefore,
neither admits nor denies such allegations.

2. That the Portal-to-Portal Act of 1947, approved
May 14, 1947, conforms in all respects to the provisions and
requirements of the Constitution of the United States and
is an existing and valid law of the United States.

3. That the constitutionality of the said Portal-to-
Portal Act of 1947 is not subject to serious question but
if the Court should entertain serious doubts concerning the
constitutionality of that Act, and if it sustains the factual
findings of the Special Master herein, it should dismiss
the action under the *de minimis* doctrine announced by the
Supreme Court of the United States in the case of *Anderson*
v. Mt. Clemens Pottery Co., 328 U. S. 680, without ruling on
the constitutional question.

Wherefore, the United States of America prays that
the Court enter a judgment herein which shall be consistent
with the constitutional validity of the said Portal-to-Portal
Act of 1947.

Tom C. Clark, Attorney General,
By Herbert A. Bergson,
Herbert A. Bergson,
Acting Assistant Attorney General,

Whit Y. Mauzy,

Whit Y. Mauzy,

Of Counsel:

United States Attorney.

Enoch E. Ellison,

Special Assistant to the Attorney General,

Charles S. Corben,

Attorney, Department of Justice.

I hereby certify that copies of the foregoing Pleading of the United States in Intervention were mailed to the following, this 14th day of July, 1947: Spillers, Spillers & Voorhees, 711 Ritz Building, Tulsa, Oklahoma; Porter & Porter, Muskogee, Oklahoma.

Whit Y. Mauzy,

Whit Y. Mauzy,

United States Attorney.

Filed in open Court, Jul. 15, 1947, Noble C. Hood, Clerk
U. S. District Court.

In the United States District Court for the Northern
District of Oklahoma

No. 1816, Civil.

Grace W. Adkins, administratrix of the Estate of P. V.
Adkins, deceased, *et al.*, Plaintiffs, *vs.* E. I. du Pont
de Nemours & Company, Inc., Defendant; United States
of America, Intervener.

ORDER OF DISMISSAL

This cause coming on for hearing before me, Royce H. Savage, Judge of the said Court, on this the 24th day of September, 1947, for hearing on objections to Master's Report and application to modify and confirm report, and on objections to the constitutionality of the Act of Congress known as the Portal-to-Portal Act of 1947, and the plaintiffs appearing by their attorneys, Porter & Porter, by John W. Porter, Jr., and by Fred W. Martin, and the de-

fendant appearing by its attorneys, Peter B. Collins of Wilmington, Delaware, and Spillers, Spillers & Voorhees of Tulsa, Oklahoma, and the United States appearing by Whit Y. Mauzy, United States District Attorney; and the Court having heard the argument of counsel and being advised in the premises finds that the Act of Congress known as the Portal-to-Portal Act of 1947 is constitutional, and that this Court under and by virtue of the terms of the said Act has no jurisdiction to pass upon further matters involved in controversy in this cause, and that this cause should be dismissed for want of jurisdiction, to which the plaintiffs object and except.

It is therefore considered, ordered, adjudged and decreed by the Court that this cause be and the same is hereby dismissed at the cost of the plaintiffs, to which the plaintiffs except.

Dated this 24th day of September, 1947.

Royce H. Savage, Judge.

Approved as to form: Grace W. Adkins, as administratrix of the Estate of P. V. Adkins, deceased, et al., Plaintiffs, By Porter & Porter, By John W. Porter, Jr., Their Attorneys. E. I. Du Pont de Nemours & Company, Inc., Defendant, By Peter B. Collins, Wilmington, Delaware, Spillers & Spillers & Voorhees, By G. C. Spillers, Its Attorneys. United States, By Whit Y. Mauzy, United States District Attorney, Its Attorney.

Filed Sep. 26, 1947, Noble C. Hood, Clerk U. S. District Court.

In the District Court of the United States for the Northern District of Oklahoma.

No. 1816-Civil.

Grace W. Adkins, as Administratrix of the Estate of P. V. Adkins, Deceased, et al., Plaintiffs, vs. E. I. du Pont de

Nemours & Company, Inc., Defendant; United States of America, Intervener.

**DESIGNATION OF PORTIONS OF RECORD FOR USE
IN RESPONSE TO PETITION FOR CERTIORARI.**

To Honorable Noble C. Hood,

Clerk of the United States District Court
for the Northern District of Oklahoma:

Please furnish us at your earliest convenience copies of the following:

1. The petition and all interventions filed by the plaintiffs and interveners herein.

2. The answer of the defendant and amendments thereto setting up and pleading the Portal-to-Portal Act of 1947.

3. The motion of the defendant to dismiss on the ground that the Portal-to-Portal Act of 1947 ousts the trial court of jurisdiction to proceed further except to dismiss.

4. Response of plaintiffs and interveners to motion to dismiss under the Portal-to-Portal Act.

5. Order of dismissal.

6. This designation of a portion of the record.

7. A certificate certifying that all of the instruments above referred to and designated, are true and correct copies of the originals on file in your office.

Peter Be. Collins,
Wilmington, Delaware,
Spillers & Spillers,
Tulsa, Oklahoma,
By G. C. Spillers,
G. C. Spillers,
Attorneys for Defendant.

I, G. C. Spillers, hereby certify that on the ... day of September, 1948, I mailed a true and correct copy of the above and foregoing Designation of Portions of Record for

use in response to petition for certiorari to the attorneys of record for the plaintiffs and interveners, to-wit: Porter & Porter, Attorneys at Law, 630 Equity Building, Muskogee, Oklahoma, and to Honorable Whit Y. Mauzy, United States District Attorney for the Northern District of Oklahoma, Attorney for the Intervener, The United States of America, with postage fully prepaid.

G. C. Spillers

G. C. Spillers

Filed: Sep. 17, 1948, Noble C. Hood, Clerk U. S. District Court.

Certified Copy

D. C. Form No. 30

United States of America, Northern District of Oklahoma—ss:

I, Noble C. Hood, Clerk of the United States District Court in and for the Northern District of Oklahoma, do hereby certify that the annexed and foregoing is a true and full copy of the original complaint, amendment to complaint, answer to complaint and amendment to complaint, amendment to answer, motion of plaintiff for determination of Portal-to-Portal Act of 1947, amendment to amended answer, pleading of the United States in intervention, order of dismissal and designation of portions of record for use in response to petition for certiorari, in Civil Action No. 1816; Grace W. Adkins, as Administratrix of the Estate of P. V. Adkins, Deceased, *et al.*, Plaintiffs, *vs.* E. I. du Pont de Nemours & Company, Inc., Defendant and The United States of America, Intervener, now remaining among the records of the said Court in my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid court at Tulsa, Oklahoma, this 21 day of September, A. D. 1948. Noble C. Hood, Clerk. (Seal) By Angie Comstock, Deputy Clerk.

In the United States District Court in and for the Northern
District of the State of Oklahoma.

No. 1816, Civil.

Grace W. Adkins as administratrix of the Estate of P. V.
Adkins, deceased, Plaintiff, vs. E. I. du Pont de Ne-
mours & Co., Inc., Defendant; The United States of
America, Intervenor.

DESIGNATION OF RECORD ON APPEAL AND
MOTION THEREON.

Comes now the plaintiff, Grace W. Adkins as adminis-
tratrix of the Estate of P. V. Adkins, deceased, and desig-
nates and requests that the complete record and all pro-
ceedings and evidence herein made and had both in this
Court and before the Special Master in this action, includ-
ing all briefs and arguments of all counsel presented here-
in, be included and contained in the record on appeal here-
in to the United States Circuit Court of Appeals for The
Tenth Circuit; and plaintiff moves this Court for appropri-
ate orders granting and facilitating her appeal herein *in*
forma pauperis and for such other relief in her appeal as
may be proper and for reason, states:

1. Plaintiff desires to appeal this case to the United
States Circuit Court of Appeals for The Tenth Circuit and
believes she is entitled to the redress she seeks, and has
accordingly given and filed her Notice of Appeal herein.
The action plaintiff maintains herein is meritorious as
more particularly reflected by all the record so designated,
and she is a citizen of the United States of America and is
such a person as contemplated by Title 28, United States
Code Annotated, Sec. 832.

2. In order to properly review this case on appeal,
with due regard to the respective contentions of all parties
as to the wage-hour claims involved and as to the constitu-
tionality challenge of the Portal-to-Portal Act of 1947, it
will be necessary to examine and consider all that plaintiff
has designated and to have a full hearing thereon.

3. Due to the voluminous nature of the record so designated and to the financial condition of plaintiff, she is unable to pay or secure the costs of preparing the record in this appeal. The verbal testimony taken before the Special Master in the trial would total an estimated 1650 typewritten pages at 250 words per page, and the exhibits alone would consume several average book volumes, and the pleadings and papers on file have accumulated at a fast rate from May 17, 1946, to date. Plaintiff is 74 years of age and is the sole beneficiary of the Estate of P. V. Adkins, deceased, being the surviving widow of said deceased. Plaintiff's only source of income and means of support is the renting out of portions of her home which constitutes said Estate appraised at \$3450, said home being located at 820 Callahan Street in the City of Muskogee, Oklahoma. All of plaintiff's income is used and required in providing her the necessities of life.

Grace W. Adkins,
Administratrix of the Estate of
P. V. Adkins, deceased, Plaintiff.

Porter & Porter,
Attys. for Plaintiff,
By John W. Porter, Jr.

State of Oklahoma, County of Muskogee—ss:

Grace W. Adkins as administratrix of the Estate of P. V. Adkins, deceased, being first duly sworn on oath, states: I am the plaintiff in the above entitled and captioned action, and I have read the above Designation of Record on Appeal and Motion Thereon and know the contents thereof and the matters and things therein set out are true and correct.

Grace W. Adkins,
Administratrix of the Estate
of P. V. Adkins, deceased.

Subscribed and sworn to before me this October 28, 1947. (Seal) Juanita Merritt, Notary Public. My notary commission expires Nov. 12, 1950.

I, John W. Porter, Jr., of Porter & Porter, Attys. for Plaintiff, hereby certify that on October 28, 1947, I mailed a true copy of the above and foregoing Designation of Record on Appeal and Motion Thereon to defendant's counsel, Peter B. Collins and Spillers, Spillers & Voorhees, Attys. at 711 Ritz Bldg., in Tulsa, Oklahoma, and also the intervenor's counsel, Attorney General Tom Clark and Whit Y. Mauzy, United States Attorney at 335 Postoffice Bldg., in Tulsa, Oklahoma.

John W. Porter, Jr.

Filed Oct. 29, 1947, Noble C. Hood, Clerk U. S. District Court.

Certified copy

D. C. Form No. 30

United States of America, Northern District of Oklahoma—ss:

I, Noble C. Hood, Clerk of the United States District Court in and for the Northern District of Oklahoma, do hereby certify that the annexed and foregoing is a true and full copy of the original Designation of Record on Appeal and Motion Thereon in Civil Action No. 1816, Grace W. Adkins as administratrix of the Estate of P. V. Adkins, deceased, Plaintiff, vs. E. I. du Pont de Nemours & Co., Inc., Defendant, and The United States of America, Intervenor, now remaining among the records of the said Court in my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Tulsa, Oklahoma, this 17th day of September, A. D. 1948.

Noble C. Hood, Clerk,

(Seal)

By Angie Comstock, Deputy Clerk.

In the United States District Court for the Northern District of Oklahoma:

No. Civil 1816.

P. V. Adkins, as Agent for J. R. Adecock, W. C. Brewster,

V. J. Blevins, T. F. Holmes, W. A. Heape, J. A. Hodges, R. Kanard, R. E. Ladd, C. Rogers, Jr., W. M. Renner, V. R. Willis, and C. Snodgrass, Plaintiffs, vs. E. I. DuPont de Nemours & Co., Inc., Defendant.

ORDER.

This matter coming on for hearing on this 22nd day of May, 1947, for fixing the compensation of the Special Master, Bradford J. Williams, and the plaintiffs appearing by their attorneys of record, and the defendant appearing by its attorneys of record, and the Special Master appearing in person, and the Court having heard testimony as to the services rendered by the Special Master and testimony as to the fair and reasonable compensation for said services finds that \$6,000.00 is a fair and reasonable compensation for the services rendered by the Special Master, and further finds that under the particular circumstances involved in the appointment of the Special Master that the compensation of the Special Master should be paid by the defendant.

Now, therefore, it is ordered, adjudged and decreed: (1) The compensation allowed to Bradford J. Williams as Special Master is fixed at \$6,000.00; (2) The compensation of the Special Master is charged upon the defendant, E. I. DuPont de Nemours & Co., Inc., and said defendant is ordered to pay said compensation within thirty (30) days from this date.

To which orders the defendant objects and excepts.

/s/ Royce H. Savage,

U. S. District Judge.

Filed May 26, 1947, Noble C. Hood, Clerk U. S. District Court.

Certified copy

D. C. Form No. 30

United States of America, Northern District of Oklahoma—ss:

I, Noble C. Hood, Clerk of the United States District Court in and for the Northern District of Oklahoma, do

hereby certify that the annexed and foregoing is a true and full copy of the original Order filed May 26th, 1947, in No. 1816-Civil, P. V. Adkins, as Agent for J. R. Adcock, et al., vs. E. I. DuPont de Nemours & Co., Inc., now remaining among the records of the said Court in my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Tulsa, Oklahoma, this 23rd day of September, A. D. 1948.

(Seal)

Noble C. Hood, Clerk,
By Benjamin B. Ballenger,
Deputy Clerk.

June 18, 1948.

Porter & Porter, Attorneys at Law,
630 Equity Building, Muskogee, Oklahoma:

Attention John W. Porter, Jr.

Gentlemen: In re Adkins, etc., v. Du Pont.

Since the Supreme Court of the United States on your application for instructions has requested that we argue this cause orally on October 18th next, it will be necessary that you furnish us a copy of your contract so that we may refer to it in our brief and argument. Please let us have a copy of your contract at your earliest convenience. It is not necessary to furnish us all the contract, simply a contract that shows the general form and the general plan of your employment.

With kind regards, we are

Yours truly,

Spillers & Spillers,
By G. C. Spillers.

GCS:dj

Porter & Porter, Attorneys,
630 Equity Building, Muskogee, Okla.

June 21, 1948

Messrs. Spillers & Spillers, Attys.,
711 Ritz Bldg., Tulsa, Oklahoma.

Gentlemen: Re: Adkins, etc., vs. Du Pont, U. S. Supreme
Court, No. 345—Miscellaneous, Argument 10-18-1948.

We have your letter of June 18, 1948, wherein you request a copy of the general form of what you refer to as our employment contract in this matter in view of the Court's order of June 1st.

We are prepared to comply with the Court's said order but we do not see where your request concerns such, and we are opposed to doing anything at this time that may lead to further enlargement and complication of an already large and complicated record. As you know, all parties are bound by the record already before the Courts, and while you made no effort to get any such information in the lengthy trial before the Special Master you did try to show the fee arrangement between the 12 claimants and their agent Adkins to which we objected and our objections were sustained by the Special Master and your objections to the Special Master's findings of fact and conclusions of law do not controvert this point, and you have taken no appeal. For the reasons we have stated, we feel compelled to decline your request. We feel sure you would do the same if you were on our side.

Yours very truly,

Porter & Porter, Attys.,
John W. Porter, Jr.

PP:jp

August 9, 1948.

Porter & Porter, Attorneys at Law,
630 Equity Bldg., Muskogee, Oklahoma.

Gentlemen: In re Du Pont cases.

In view of the nature of the argument to be made before the Supreme Court of the United States in October next, please be so kind as to furnish us with a copy of the form of contingent contract.

We note that in your letter of June 21, 1948, you declined to do this. However, we feel perhaps that you have reconsidered your position in the matter. If you are still disposed not to grant this request then we shall make application to the court.

Very truly yours,

Spillers & Spillers,
By G. C. Spillers, Jr.

GCSjr:dj

Porter & Porter, Attorneys,
630 Equity Building, Muskogee, Okla.

Aug. 11, 1948.

Messrs. Spillers & Spillers, Attys.,
711 Ritz Bldg., Tulsa, Okla. . .

Gentlemen: As to your letter of August 9, 1948, to us referenced the "Du Pont cases," the only answer we give is that we acknowledge receipt of the letter, and refer to ours of June 21, 1948.

Yours very truly,

Porter & Porter, Attys.,
John W. Porter, Jr.

PP:jp